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GOVERNMENT OF GOA

Department of Finance

Office of the Commissioner of Commercial Taxes

No. CCT/26-4/2022-23/F/3139

Subject: Clarification on refund related issues-reg.

Ref.: Circular No. 181/13/2022-GST dated 10th November, 2022 issued under Central Goods and Services Tax Act, 2017 by the GST Policy Wing, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, GOI, New Delhi.

Circular

(No. 12/2022-23-GST)

Central Board of Indirect Taxes and Customs (CBIC) has issued the above referred circular. For the uniformity, it has been decided that the said Circular issued by the CBIC is being made applicable, mutatis mutandis, in implementation of the Goa GST Act, 2017. Copy of the referred CBIC Circular is attached herewith.

This Trade Circular is clarificatory in nature. Difficulty, if any, in implementation of this Circular may please be brought to the notice of the undersigned.

Sarpreet Singh Gill, IAS, Commissioner of State Taxes.

Panaji, 20th January, 2023.

Circular No. 181/13/2022-GST

F. No. CBIC-20021/4/2022

Government of India

Ministry of Finance

Department of Revenue

Central Board of Indirect Taxes and Customs

GST Policy Wing

New Delhi, Dated the 10th November, 2022.

To,

The Principal Chief Commissioners/Chief Commissioners/Principal Commissioners/Commissioners of Central Tax (All).

The Principal Directors General/Directors General (All).

Madam/Sir,

Subject: Clarification on refund related issues-reg.

Attention is invited to sub-section (3) of Section 54 of CGST Act, 2017, which provides for the refund of unutilized input tax credit in cases where credit is accumulated on account of rate of tax of inputs being higher than the rate of tax on output supplies i.e. on account of inverted duty structure. Sub-rule (5) of Rule 89 of CGST Rules, 2017 prescribes the formula for grant of refund in cases of inverted duty structure. Vide Notification No. 14/2022-Central Tax dated 05-07-2022, amendment has been made in the formula prescribed under sub-rule (5) of Rule 89 of the CGST Rules, 2017. Further, vide Notification No. 09/2022-Central Tax (Rate) dated 13-07-2022, which has been made effective from 18-07-2022, the restriction has been placed on refund of unutilised input tax credit on account of inverted duty structure in case of supply of certain goods falling under chapter 15 and 27.

2. Representations have been received from the trade and the field formations seeking clarification on various issues pertaining to the implementation of the above notifications. In order to clarify the issues and to ensure uniformity in the implementation of the provisions of law across the field formations, the Board, in exercise of its powers conferred by Section 168 (1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as "CGST Act"), hereby clarifies the issues as under:

Sr. No	Issue	Clarification
1.	Whether the formula prescribed under sub-rule (5) of Rule 89 of the CGST Rules, 2017 for calculation of refund of unutilised input tax credit on account of inverted duty structure, as amended vide Notification No. 14/2022-Central Tax dated 05-07-2022, will apply only to the refund applications filed on or after 05-07-2022, or whether the same will also apply in respect of the refund applications filed before 05-07-2022 and pending with the proper officer as on 05-07-2022?	Vide Notification No. 14/2022-Central Tax dated 05-07-2022, amendment has been made in sub-rule (5) of Rule 89 of CGST Rules, 2017, modifying the formula prescribed therein. The said amendment is not clarificatory in nature and is applicable prospectively with effect from 05-07-2022. Accordingly, it is clarified that the said amended formula under sub-rule (5) of Rule 89 of the CGST Rules, 2017 for calculation of refund of input tax credit on account of inverted duty structure would be applicable in respect of refund applications filed on or after 05-07-2022. The refund applications filed before 05-07-2022 will be dealt as per the formula as it existed before the amendment made vide Notification No. 14/2022-Central Tax dated 05-07-2022.
2.	Whether the restriction placed on refund of unutilised input tax credit on account of inverted duty structure in case of certain goods falling under chapter 15 and 27 vide Notification No. 09/2022-Central Tax (Rate) dated 13-07-2022, which has been made effective from 18-07-2022, would apply to the refund applications pending as on 18-07-2022 also or whether the same will apply only to the refund applications filed on or after 18-07-2022 or whether the same will be applicable only to refunds pertaining to prospective tax periods?	Vide Notification No. 09/2022-Central Tax (Rate) dated 13-07-2022, under the powers conferred by Clause (ii) of the first proviso to sub-section (3) of Section 54 of the CGST Act, 2017, certain goods falling under chapter 15 and 27 have been specified in respect of which no refund of unutilised input tax credit shall be allowed, where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on the output supplies of such specified goods (other than nil rated or fully exempt supplies). The said notification has come into force with effect from 18-07-2022. The restriction imposed vide Notification No. 09/2022-Central Tax (Rate) dated 13-07-2022 on refund of unutilised input tax credit on account of inverted duty structure in case of specified goods falling under Chapter 15 and 27 would apply prospectively only. Accordingly, it is clarified that the restriction imposed by the said notification would be applicable in respect of all refund applications filed on or after 18-07-2022, and would not apply to the refund applications filed before 18-07-2022.

3. It is requested that suitable trade notices may be issued to publicize the contents of this Circular.

4. Difficulty, if any, in implementation of this Circular may please be brought to the notice of the Board. Hindi version would follow.

(Sanjay Mangal), Principal, Commissioner (GST).

No. CCT/26-4/2022-23/F/3140

Subject: Guidelines for verifying the Transitional Credit in light of the order of the Hon'ble Supreme Court in the Union of India vs Filco Trade Centre Pvt. Ltd., SLP(C) No. 32709-32710/2018, order dated 22-07-2022 & 02-09-2022-reg.

Ref.: Circular No. 182/14/2022-GST dated 10th November, 2022 issued under Central Goods and Services Tax Act, 2017 by the GST Policy Wing, Central Board of Indirect Taxes and Custom, Department of Revenue, Ministry of Finance, (GOI), New Delhi.

Circular

(No. 13/2022-23-GST)

Central Board of Indirect Taxes and Customs (CBIC) has issued the above referred circular. For the uniformity, it has been decided that the said Circular issued by the CBIC is being made applicable, mutatis mutandis, in implementation of the Goa GST Act, 2017, except the Annexure-1 which pertains to verification CGST Credit and below mentioned administrative instruction. Copy of the referred CBIC Circular is attached herewith.

It is further decided that Deputy Commissioner (GST) shall be the Nodal Officer for proper co-ordination between State and Central authorities for verification of transitional credit claims. Also, it is the responsibility of the Deputy Commissioner of State Tax of concerned ward offices to regularly monitor the progress made in this regard so that the timelines mentioned in the Hon'ble Supreme Court's order dated 22-07-2022 and 02-09-2022 are strictly adhered to by the field formations.

Difficulty, if any, in implementation of this Circular may please be brought to the notice of the undersigned.

Sarpreet Singh Gill, IAS, Commissioner of State Taxes.

Panaji, 20th January, 2023.

Circular No. 182/14/2022-GST
 F. No. CBIC-20021/04/2021-GST
 Government of India
 Ministry of Finance
 Department of Revenue
 Central Board of Indirect Taxes and Customs
 GST Policy Wing
 New Delhi, Dated the 10th of November, 2022.

To,
 The Principal Chief Commissioners/Chief Commissioners/Principal Commissioners/Commissioners of Central Tax (All).

Madam/Sir,

Subject: Guidelines for verifying the Transitional Credit in light of the order of the Hon'ble Supreme Court in the Union of India vs. Filco Trade Centre Pvt. Ltd., SLP(C) No. 32709-32710/2018, order dated 22-07-2022 & 02-09-2022-reg.

Attention is invited to the directions issued by the Hon'ble Supreme Court vide order dated 22-07-2022 in the matter of Union of India vs. Filco Trade Centre Pvt. Ltd., SLP(C) No. 32709-32710/2018. The operative portion of the judgment is as follows:

"1. Goods and Service Tax Network (GSTN) is directed to open common portal for filing concerned forms for availing Transitional Credit through TRAN-1 and TRAN-2 for two months i.e. w.e.f. 01-09-2022 to 31-10-2022.

2. Considering the judgments of the High Courts on the then prevailing peculiar circumstances, any aggrieved registered assessee is directed to file the relevant form or revise the already filed form irrespective of whether the taxpayer has filed writ petition before the High Court or whether the case of the taxpayer has been decided by Information Technology Grievance Redressal Committee (ITGRC).

3. GSTN has to ensure that there are no technical glitch during the said time.

4. The concerned officers are given 90 days thereafter to verify the veracity of the claim/ transitional credit and pass appropriate orders thereon on merits after granting appropriate reasonable opportunity to the parties concerned.

5. Thereafter, the allowed Transitional credit is to be reflected in the Electronic Credit Ledger.

6. If required GST Council may also issue appropriate guidelines to the field formations in scrutinizing the claims. The Special Leave Petitions are disposed of accordingly. Pending applications, if any, also stand disposed of."

1.2. Subsequently in Miscellaneous Application No. 1545-1546/2022 in SLP(C) No. 32709-32710/2018, Hon'ble Supreme Court vide order dated 2nd September, 2022 has inter-alia ordered as follows:

"The time for opening the GST Common Portal is extended for a further period of four weeks from today.

It is clarified that all questions of law decided by the respective High Courts concerning Section 140 of the Central Goods and Service Tax Act, 2017 read with the corresponding Rule/ Notification or direction are kept open."

2. As is clear from the above, the Hon'ble Court has directed that the common portal be opened for filing prescribed forms for availing Transitional Credit through TRAN-1 and TRAN-2 for two months from 01-10-2022 to 30-11-2022 for the aggrieved registered assessee (henceforth, referred as 'applicant'). The Transitional Credit claimed by the applicant shall be credited in his electronic credit ledger to the extent allowed by the jurisdictional tax officer through an order after carrying out necessary verifications. As per the Hon'ble Court's order, the said verification has to be carried out within 90 days after completion of the above window of two months, i.e. within 90 days from 01-12-2022 i.e. upto 28-02-2023.

2.1 It is to be noted that while allowing the applicant to file/revise TRAN-1/TRAN-2 during this window of 2 months, Hon'ble Supreme Court has kept all questions of law open.

2.2 It may be mentioned that Hon'ble Supreme Court has only allowed filing of TRAN 1/TRAN-2 or revising the TRAN-1/TRAN-2 already filed by the applicant and has not allowed the applicant to file revised returns under the existing laws.

3. Reference is also invited to the Board's Circular No. 180/12/2022 dated 09-09-2022 vide which guidelines have been issued for the applicants for filing new TRAN-1/TRAN-2 or revising the already filed TRAN-1/TRAN-2 on the common portal.

4. To ensure uniformity in the implementation of the directions of the Hon'ble Supreme Court across field formations, the Board, in exercise of its powers conferred by Section 168 (1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as "CGST Act"), hereby issues the following guidelines for verifying the Transitional Credit.

5. Verification of the Transitional Credit:

5.1 The jurisdictional tax officers can access the TRAN-1/TRAN-2 filed/revised by the applicant on their back office systems (which is the CBIC-AIO portal for the Central Tax Officers, the respective State portal for MODEL-1 States and BO portal for MODEL 2 States). Further, a self-certified downloaded copy of TRAN-1/TRAN-2 filed/revised by the applicant shall also be made available to the jurisdictional tax officer by the said applicant as mentioned in Para 4.5 of Circular 180/12/2022 dated 09-09-2022.

5.2 The verification of the transitional credit shall be conducted by the jurisdictional tax officer who will pass an appropriate order regarding the veracity of the claim filed by the

applicant, based on all the facts and the provisions of the law. In respect of TRAN-1/TRAN-2 filed/revised by the applicant under the administrative control of the central tax authorities, such verification and issuance of order shall be done by the jurisdictional officer of central tax, whereas in respect of TRAN-1/TRAN-2 filed/revised by the applicant under the administrative control of the State tax authorities, the same shall be done by the Jurisdictional Officer of State Tax. The jurisdictional tax officer shall start the verification process immediately on availability of TRAN-1/TRAN-2 filed/revised by the applicant on the back office system or on receipt of self-certified downloaded copy of the same from the applicant, whichever is earlier. It is needless to mention that principles of natural justice shall be followed in the process of passing the order relating to allowance or disallowance of the Transitional Credit.

5.3 The jurisdictional tax officer shall, on the basis of declaration made by the applicant in the format specified in Annexure A to Circular No. 180/12/2022 dated 09-09-2022, and on the basis of data available on the back office system, shall check whether the applicant had earlier filed TRAN-1/TRAN-2 or not. In cases where TRAN-1/TRAN-2 had already been filed by the applicant earlier, the tax officer shall check whether there is any change from the earlier filed TRAN-1/TRAN-2 or not. In case, there is no change from the earlier filed TRAN-1/TRAN-2, then such claim of transitional credit is liable for rejection by the tax officer, through a reasoned order, after providing due reasonable opportunity to the applicant.

5.3.1 In other cases, the jurisdictional tax officer shall proceed for verification of claim of transitional credit made by the applicant in FORM TRAN-1/TRAN-2. In this regard, in respect of transitional credit pertaining to central tax, he may refer to the guidelines detailed in Annexure I to this circular. In respect of verification of transitional credit pertaining to the State Tax/Union territory Tax, the tax officer may refer to the guidelines issued by the relevant State/UT, if any.

5.3.2 There may be cases where the transitional credit claim filed/revised by the applicant may have components of both central tax and State/UT tax. In such cases, where the applicant is under the jurisdiction of central tax officer and where the transitional credit claimed has component of State/Union Territory tax also, the jurisdictional central tax officer shall refer the said

claim for verification of component of State/UT tax to his counterpart State/UT tax officer. For this purpose, he shall share the list of GSTINs/ARNs with the counterpart officer, in respect of which verification report is needed from him, on a weekly basis, along with an intimation of the same to the nodal officer of central tax as well as State/UT tax referred in Para 6.1 below through his official email ID or physically. Similar action, as above, shall also be taken by the jurisdictional State/UT tax officers in cases where the applicant is under the jurisdiction of State/UT tax officer and where the transitional credit claimed has component of central tax also.

5.3.3 The jurisdictional tax officer shall, in parallel, continue the verification of the remaining portion of the transitional credit at his end.

5.3.4 The jurisdictional tax officer and the counterpart tax officer shall verify the transitional credit claimed under the CGST or the SGST head, as the case may be, by referring to the guidelines detailed in Annexure I to this circular for transitional credit pertaining to central tax and the guidelines issued by the relevant State/UT for verification of transitional credit pertaining to the State Tax/Union territory Tax, as applicable. While conducting the verification, the officer must also check whether any adjudication or appeal proceedings in TRAN-1/TRAN-2 related matter are pending/concluded against the applicant. In such cases, where any adjudication or appellate proceedings have been initiated against the applicant in respect of TRAN-1/TRAN-2, the officer should take a note of the relevant facts in the notice/order, and the grounds/reasons for inadmissibility of transitional credit, if any, in the said notice/order.

5.3.5 In respect of verification done by the counterpart officer, after verification, he will prepare a verification report, in the format detailed in Annexure-II of this circular, specifying the amount of transitional credit which may be allowed to be credited to the electronic credit ledger of the applicant and the amount which is liable for rejection, along with detailed reasons/grounds on which the said amount is liable to be rejected. Such duly signed verification report shall be sent by the counterpart officer to the jurisdictional tax officer at the earliest, though generally not later than ten days from the date of receipt of the request from the jurisdictional officer. In case, where the adjudication or appeal proceedings in respect of TRAN-1/TRAN-2 related matter are pending/concluded against

the applicant, the counterpart officer shall categorically bring out the relevant facts in his/her verification report alongwith his detailed findings, admissibility/inadmissibility, reasons of inadmissibility thereof and the copy of the relevant notice and/or orders.

5.3.6 For the purpose of verification of the claim of the transitional credit, the jurisdictional tax officer as well as the counterpart tax officer, if required, may call for relevant records including requisite documents/returns/invoices, as the case may be, from the applicant.

5.3.7 After receiving the verification report from the counterpart officer, the jurisdictional tax officer shall decide upon the admissibility of the credit claimed by the applicant. In case the jurisdictional tax officer finds that the transitional credit claimed by the applicant is partly or wholly inadmissible as per the provisions of the Act and the rules thereof, then a notice shall be issued by the jurisdictional tax officer to the applicant preferably within a period of seven days from the receipt of report from the counterpart officer, seeking explanation of the applicant as to why the said credit claimed by him should not be denied wholly/partly, as the case may be. The applicant shall also be provided an opportunity of personal hearing by the jurisdictional tax officer in such cases. If required, the jurisdictional tax officer may seek comments of the counterpart officer on the submissions made by the applicant in so far as the said submission relates to the tax (central or State) being administered by such counterpart officer.

5.3.8 After considering the facts of the case, including verification report received from the counterpart officer, submissions made by the applicant and the comments, if any, of the counterpart officer on the same, the jurisdictional tax officer shall proceed to pass a reasoned order, preferably within a period of fifteen days from the date of personal hearing, specifying the amount of transitional credit allowed to be transferred to the electronic credit ledger of the applicant and upload a pdf copy of the said order, on the common portal for crediting the amount of allowed transitional credit to the electronic credit ledger of the applicant. In any case, such order shall be passed within a period of 90 days from 01-12-2022 i.e. upto 28-02-2023.

5.3.9 Where the amount credited to the electronic credit ledger pursuant to the originally filed TRAN-1/TRAN-2 exceeds the amount of credit admissible in terms of the revised TRAN-1/

/TRAN-2 filed by the applicant, such excess credit is liable to be demanded and recovered from the applicant, along with interest and penalty, in accordance with the provisions of Chapter XV of the Act and the rules made thereunder.

5.3.10 GSTN will also issue a separate advisory for entering the details on the portal by the tax officers.

5.3.11 It may be noted that consequent to reorganization of the State of Jammu & Kashmir and merger of the Union territories of Dadra and Nagar Haveli & Daman and Diu, the taxpayers of UT of Ladakh and the earlier UT of Daman and Diu have been allotted new GSTINs. Accordingly, the taxpayers of Ladakh and Daman and Diu can file/revise TRAN-1/TRAN-2 only through their newly allotted GSTINs. It is, therefore, advised that the concerned jurisdictional tax officers should take into consideration transitional credit, if any, claimed by such taxpayers under their previous GSTINs.

6. Modalities of co-ordination between central tax authorities and state tax authorities.

6.1 It is to be noted that all the Zonal Principal Chief Commissioner/Chief Commissioners (PCCs/CCs) of Central Tax and Chief Commissioners/Commissioners of Commercial Taxes (CCCTs/CCTs) of various States/UTs shall appoint nodal officer(s) in their respective formations immediately for proper co-ordination between

central and State/UT authorities for verification of transitional credit claims and shall make available the details of the said nodal officers, along with their phone numbers and email IDs, to the counterpart tax authority. The nodal officers shall ensure that the verification reports/ comments sought by the jurisdictional tax officers are being sent in a timely manner by the counterpart officers in their formations.

6.2 It is the responsibility of the Zonal Principal Chief Commissioner/Chief Commissioners (PCCs/CCs) of Central Tax and Chief Commissioners/Commissioners of Commercial Taxes (CCCTs/CCTs) of various States/UTs to regularly monitor the progress made in this regard so that the timelines mentioned in the Hon'ble Supreme Court's order dated 22-07-2022 and 02-09-2022 are strictly adhered to by the field formations.

7. Where any communication is required to be made by the central tax officer with the applicant for the purpose of verification of TRAN-1/TRAN-2, through a mode other than through the portal, the same should be made with the use of DIN, as per the guidelines mentioned in the CBIC Circular No. 122/41/2019-GST dated 5th November, 2019.

8. Difficulties, if any, in implementation of these instructions may be informed to the Board (gst-cbec@gov.in). Hindi version shall follow.

(Sanjay Mangal), Principal Commissioner (GST).

ANNEXURE-I

Guidance Note for Verification of CGST Transitional Credit claimed by the Applicant in TRAN-1/TRAN-2

1. Description of entries in TRAN-1 Table:

In the Form TRAN 1 there are only six entries which decide all the CGST credit which is posted in the electronic credit ledger. These entries are briefly described below. It is advised that the full text of law be referred for better understanding of the issue.

Sr. No.	Table No. in TRAN-I	Provision in CGST Act	Indicative list nature of Credit
1	2	3	4
1.	Col. 6 in table 5(a)	140(1), 140(4)(a) and 140(9)	This table captures detail of the CENVAT credit carried forward in the return (ER-1/2/3 or ST-3) relating to the period ending with 30-06-2017, subject to conditions specified in Section 140(1) of CGST Act, by the manufacturers/ service providers.

1	2	3	4
2.	Column 11 of Table 6(a)	140(2)	This table captures details of un-availed credit of capital goods in the pre-GST era. Capital Goods credit was allowed to be availed in two installments of 50% each. This table is meant to be used by the tax payers who have availed a portion of CENVAT credit on capital goods through ER or ST return and now intend to avail remaining credit in respect of capital goods which has not been availed through the ER or ST return. The said amount of credit should have been admissible as input tax credit under GST law as well as under existing law.
3.	Table 7(a)	Column (6) in Entry 7A in Table 7(a) Column (6) in Entry 7B in Table 7(a)	140(3) 140(4)(b) 140(6) and 140(7) Provisio to Section 140(3) and Rule 117(4) of CGST Rules
			This table pertains to credit claim by new tax payers or tax payers who were either not registered or were not part of CENVAT Credit chain earlier. Here, Credit can be claimed in TRAN-1 in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day based on invoice/ /document evidencing payment of duty (including CTD), subject to fulfillment of other conditions specified in Section 140(3), 140(4)(b), 140(6) and 140(7) as the case maybe. This table pertains to credit claim by new tax payers (e.g. traders) who were not manufacturers or service providers. Deemed credit @ 60% of Central Tax applicable where CGST is 9% or more, and 40% where CGST is less than 9% can be availed. The provision applies where the assessee is not in possession of an invoice or any other documents evidencing payment of duty in respect of inputs only. [In this case the Electronic Credit Ledger gets populated through TRAN-2 and not through TRAN 1].
4.	Column (8) in Table 7(b)	140(5), 140(7)	This table captures transitional credit taken on such inputs or input services which were received after 1st of July, 2017 but taxes on which were paid under the existing law (Goods/Services in Transit). It does not apply to capital goods. This table also captures credit distributed by the Input Service Distributor.
5.	Column 9 in Table 8	140(8)	This table pertains to Centrally Registered unit , the CENVAT credit carried forward in their last return is captured in Table 5(a) and a part or full of such credit can be distributed through Table 8. The credit distributed through column 9 gets credited in the electronic credit ledger of the receivers and a corresponding debit entry in made in the ledger of the Centrally registered unit.
6.	Column (7) in Table 11	Section 142(11) (c) read with Rule 118 of CGST Rules	Transition of credit in respect of supplies which attracted both VAT and Service Tax in pre-GST era and where VAT and Service Tax both were paid,

1	2	3	4
			before 1st July, 2017, on any supply but the supply is made after 1st July, 2017. The taxable person is entitled to take as CGST credit, the service tax paid under the existing law to the extent of supplies made after 1st July, 2017 as he would be liable to pay CGST in respect of such supplies. (VAT credit cannot be taken as Service tax credit and vice versa).

2. Checks for verification of entries in TRAN-1 Table:

As a matter of assistance, following checks are suggested in relation to the entries provided in various tables of TRAN 1. The list of checks is not exhaustive but is indicative only based on provisions of law, the likely error and the inputs received from the field formations.

Checks for Table 5(a):

3.1.1 Check 1: Verify that the credit has been taken against closing balance of CENVAT credit in ER-1/2/3 or ST-3. Credit can be taken only where the last return was filed and credit taken in Table 5(a) should not be more than closing balance of credit in ER-1/2/3 or ST-3 minus the education/secondary education cess/KKC/SBC.

3.1.2 Check 2: Credit of taxes not covered in the definition of eligible duties in Section 140 cannot be availed. Example: Krishi Kalyan Cess, Education Cess, clean energy cess etc. Credit of VAT and PLA balance is not allowed as transitional credit.

3.1.1 Check 3: Check that returns have been filed for last 6 months. An assessee filing TRAN-1 and taking credit in table 5(a) should have—

- Filed ER-1 or ER-2 regularly between Jan., 2017 and June, 2017 or
- Filed ER-3 for period ending March, 2017 and June, 2017 or
- Filed ST-3 for period ending March, 2017 and June, 2017.

This check should be performed liberally where many units have merged into one registration or a single unit has been split into many (Centralized registration cases/LUT units) in GST. Compliance by any of the merging unit which was filing the returns in the pre-GST would entitle the new unit to avail credit in relation to that merging unit.

Checks for Table 6(a):

4.1 Check 4: Check that in table 6 only credit on capital goods not availed in any return is taken. If second installment of any capital goods credit is taken through return in table 5(a) and again the details are filled in table 6, it would lead to double credit getting taken. For example, the second

installment of capital goods credit where first installment credit was availed in 2016-17 and second installment can be availed in the financial year 2017-18, provided the second installment was not availed in any of the returns filed in the first quarter of 2017-18 under Central Excise or Service Tax. If no credit was availed earlier, credit of entire amount cannot be availed through this Table. In respect of invoices involving large credit, due verification as deemed fit may be done.

Checks for Table 7(a), Entry 7A:

5.1 Check 5: In cases where the credit is being shown by an assessee who was **registered** in Central Excise or Service on account of inputs relating to exempted goods, carefully check whether the assessee has followed the provisions of Rule 6 of CENVAT Credit Rules in the period prior to GST.

Case I: Only exempted goods/services were being manufactured or provided: Rule 6(2) of CENVAT Credit Rules did not allow any credit in the CENVAT register if only exempted goods were being manufactured. No credit can flow from return in relation to inputs in such cases. The entry in table 5(a) therefore should be NIL. The apportionment of credit on inputs and complete reversal thereof under Rule 6 of CENVAT Credit Rules took place at the time of removal of goods. Therefore, in such cases only credit of inputs and inputs contained in semi-finished which existed in stock on the day of the transition and for which conditions prescribed in cl. (i) to (v) of Section 140(3) are satisfied would be available. Where the stock shown is very high, verification using VAT return or any other collateral document where stocks are declared can be done.

CaseII: Exempted and non-exempted goods/ services were being manufactured or provided: Rule 6(3) of the CENVAT Credit Rules provided the procedure for apportionment of credit relating to taxable goods/services and reversal of credit relating to exempted goods/services. Credit in table 5(a) would flow from the return in such cases. It should be checked that the return reflects credit after application of Rule 6(3) of CENVAT Credit Rules. The reversal in terms of Rule 6(3) was required to be

done at the time of removal of finished goods. Therefore some credit in Table 7A can arise for such inputs which were in stock and which not attributed till the date of the transition to either exempted goods or non-exempted goods. To avail credit on such inputs, other conditions prescribed in Cl. (i) to (v) of Section 140(3) are required to be satisfied. Where the stock shown is very high, verification using VAT return or any other collateral document, where stocks were declared, can be done.

5.2: Check 6: In cases where a new tax payer has availed credit using Credit Transfer Document, check that CTD issued by the manufacturer exists and CTD has been issued in terms of Rule 15(2) of CCR, 2017 read with Notification No. 21/2017-CE(NT) dated 30-06-2017 (Capital Goods having value more than Rs. 25,000, goods to be identifiable by a distinct number etc.) e.g.: Dealers of new car.

Checks for Table 7(a), Entry 7B:

6.1 Check 7: Check that credits on stock declared on which credit can be claimed in terms of Rule 117(4) of the CGST Rules, 2017 are reasonable. Where the stock declared in very high, stock declared in VAT return or any other collateral document, where stocks were declared, may be cross-checked. It may be noted that credit of this stock would be available on sale being made and TRAN 2 return being filed. It is reiterated that electronic credit ledger would get populated through TRAN-2 and not through TRAN-1.

6.2 Check 8: Check that the assessee has not declared this stock in any other table or has not availed this credit from any other table, say table 5(a). Where the person availing credit through TRAN 2, for which stock is declared in this table, is a trader, no credit can exist in any other table which pertains to credit to tax payers who were registered earlier [e.g. Table 5(a)].

Checks for Table 7(b):

8.1 Check 9: Check that the duty paying document exist and take confirmation from the tax payer that the duty or the tax paying document were recorded in the books of account of such person as per the conditions prescribed in law. Where goods under movement are shown in exorbitant quantity, transport verification may be considered. It should also be checked that the conditions for availing ISD credit as prescribed in law are satisfied.

Checks for Table 8:

9.1 Check 10: Centralized registered units have distributed their credit through table 8. The units

receiving the credit were not required to file TRAN 1 to receive this credit. The receiving units have got credit on the basis of credit distributed by the centrally registered unit. Check that receiving units have not filed TRAN 1 to avail this credit as this would lead to double credit to receiving unit. Also take confirmation from the centrally registered unit that resultant credit in the ledger of the distributing centrally registered unit was reduced by the amount of credit distributed through Table 8.

10. Check for Table 11:

10.1 Check 11: Check that the service tax claimed as credit was indeed paid under the existing law and supplies were indeed made after 1st July, 2017. Credit of VAT cannot be taken as CGST credit and vice-versa.

11. General check:

11.1 Check 12: Check that credit which is being claimed through TRAN 1/TRAN-2 is not taken through return in FORM GSTR-3B. This can lead to double credit being taken.

11.2 Clarifications issued vide Circular No. 33/07/2018-GST dated 23-02-2018 regarding disputed credit and blocked credit may be followed during the verification process of the transitional credit.

ANNEXURE-II

Verification Report for TRAN-1/TRAN-2 to be submitted by the counterpart Officer to the Jurisdictional Tax Officer

1. Basic information:

(a) Name:

(b) GSTIN:

(d) Whether transition credit claimed earlier Yes/No

2. (a) Whether SCN/Adjudication order issued in respect of credit availed through TRAN-1/TRAN-2 filed earlier; if "Yes", provide reference number and date:

(b) If answer to (a) above is "Yes", then amount of transitional credit disallowed/proposed to be disallowed out of total claim filed by the applicant earlier:

*Table of TRAN- 1/TRAN-2	#Amount of credit disallowed/ /proposed to be disallowed	@Grounds on which credit is disallowed/ /proposed to be disallowed	\$ Whether recovered
(a)			
(b)			
(c)			

Notes:

- 1) Add additional rows if required.
- 2) *Specify the serial number of the Table (of earlier filed TRAN-1/TRAN-2), the credit in respect of which has either been disallowed through an order or is proposed to be disallowed through an SCN.
- 3) #Specify the amount which has been disallowed/proposed to be disallowed.
- 4) @Specify the grounds for disallowance of the said credit.
- 5) \$Specify whether amount has been recovered, either in cash or debit to credit ledger.
- 6) Attach copies of the relevant notice/adjudication order.

3. (a) Whether appeal has been filed against the adjudication order, if any, specified in serial number 2 above; if "Yes", provide appeal number and date of filing appeal.

(b) If appeal has been disposed of, then provide order number and date.

(c) Details relating to Appellate Order:

*Table of TRAN- 1/TRAN-2	Finding of Appellate Authority	\$ Whether recovered
(a)		
(b)		
(c)		

Notes:

- 1) Add additional rows if required.
- 2) *Specify the serial number of the Table (as mentioned in Table at serial number 2 above) and the amount of tax the claim in respect of which has been adjudicated and the appeal has been decided.
- 3) \$Specify whether amount has been recovered, either in cash or debit to credit ledger.
- 4) Attach copies of the order of the appellate authority.

4. Amount of credit claimed afresh/revised (as per TRAN-1/TRAN-2 filed/revised during the present window of two months) by the applicant, the amount admissible, the amount in admissible, if any, along with the grounds/reasons for non-admissibility thereof:

Table	Amount claimed in newly filed/ /revised TRAN-1/ /TRAN-2		Amount admissible		Amount inadmissible, if any		Grounds of inadmissibility, along with the relevant provisions of law/rules
	CGST	SGST/ /UTGST	CGST	SGST/ /UTGST	CGST	SGST/ /UTGST	
1	2	3	4	5	6		
(a)	5(a) of TRAN-1						
(b)	5(c) of TRAN-1						
(c)	6(a) of TRAN-1						

1	2	3	4	5	6
(d)	6(b) of TRAN-1				
(e)	7(a) (7A) of TRAN-1				
(f)	7(a)(7B) of TRAN-1				
(g)	7(b) of TRAN-1				
(h)	7(c) of TRAN-1				
(i)	8 of TRAN-1				
(j)	10(a) of TRAN-1				
(k)	10(b) of TRAN-1				
(l)	11 of TRAN-1				
(m)	Aggregate of Table 4 of TRAN-2				
(n)	Aggregate of Table 5 of TRAN-2				

5. Other relevant information, if any (please give details).

Place:

Signature of the Counterpart Officer

Date:

(Name & Designation of the Counterpart Officer)

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